

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET No. 2017-381-A**

In Re: The Impact of the Tax Cuts and Jobs Act  
 On South Carolina Utilities

)  
 ) KIAWAH ISLAND UTILITY, INC's  
 ) PETITION FOR REHEARING  
 ) OR RECONSIDERATION  
 )

Pursuant to S.C. Code §58-5-330 and S.C. Code Reg. 103-854, Kiawah Island Utility, Inc. ("KIU") moves for rehearing or reconsideration of the Commission's Order No. 2017-308, issued April 25, 2018.

KIU respectfully requests the Commission reconsider and clarify these aspects of its Order:

To ensure that all utilities account for these changes in a similar manner, beginning January 1, 2018, regulatory accounting treatment is required for all regulated utilities for any impacts of the new law including current and deferred tax impacts. Therefore, the utilities should track and defer the effects resulting from the Tax Act in a regulatory liability account.

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For water/wastewater utilities with operating revenues that are equal to or greater than \$250,000, the issue will be addressed in the next rate case or other proceeding.

KIU reiterates that the Commission must make its determinations about what action, if any, is required in this docket on a prospective basis to avoid retroactive ratemaking. S.C. Elec. & Gas Co. v. Pub. Serv. Com., 275 S.C. 487, 491 (1980) The Commission must also consider the overall financial condition of a utility, before ordering any change in rates or credit against future revenue requirements to satisfy the constitutional requirements recognized by the courts in Bell Tel. & Tel. Co. v. Pub. Serv. Com., 270 S.C. at 594 (1978) *citing*

Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944).

The Commission's Order does not define "the effects" of the Tax Cuts and Jobs Act ("TCJA") that utilities must track and defer, and the purpose for which the effects are being deferred. Assuming the Commission intends for utilities to place their net reduction in income tax in a deferral account, the decision may have unintended consequences. A utility such as KIU will experience an immediate reduction in its earnings when it assigns funds to a deferral account. This reduction, made without regard to the utility's overall financial condition, will adversely affect the utility's ability to earn its authorized operating margin or return on equity, and because the deferral is a continuing obligation, the negative effect of the deferral will only increase as time goes by.

For instance, KIU's rates were last set on the basis of a 2015 test year<sup>1</sup>; even if the company's tax expense has been reduced by the TCJA, it is easily understood other expenses have increased since the test year. Yet, the deferral account only considers the reduction in taxes, not any other changes in the company's financial position. The only apparent way to end the deteriorating financial effect of the deferral appears to be with a rate case, in which the reduced tax expenses of the utility will be viewed in light of all factors pertinent to the utility's financial condition. At that time, when the Commission determines how to apply the deferral, KIU submits the Commission should also consider the utility's overall financial condition during the deferral period.

KIU is aware its comments may be subject to misinterpretation. However, we are confident the Commission will recognize the company is speaking with the candor and

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<sup>1</sup> See Order 2017-277, Docket No. 2016-222-WS, p. 5.

respect this tribunal deserves. KIU is not “threatening” to file a rate case; it is merely stating financial reality. An “off the top” reduction in a regulated utility’s revenues, with no consideration to changes in its expenses or other financial conditions, will likely cause the utility to seek rate relief sooner than it otherwise would.

Respectfully submitted

May 11, 2018

*/s/ Charles L.A. Terreni*

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**IN RE:           The Impact of the Tax Cuts and Jobs Act           )**  
**On South Carolina Utilities                                )**       **CERTIFICATE OF SERVICE**

This is to certify that I, Carl E. Bell, Paralegal, Terreni Law Firm, LLC, have on this 11<sup>th</sup> day of May, 2018 served one (1) copy of **KIAWAH ISLAND UTILITY, INC's PETITION FOR REHEARING OR RECONSIDERATION**, in the above referenced matter to the persons listed below by service via electronic mail.


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***May 11, 2018***  
***Columbia, South Carolina***